



Criminal Law Act 1977

1977 CHAPTER 45

PART III

CRIMINAL PROCEDURE, PENALTIES, ETC.

Other provisions

41 Transfer of remand hearings

- (1) A magistrates' court adjourning a case under—
 - (a) section 6 of the Magistrates' Courts Act 1952 (committal proceedings), or
 - (b) section 14(1) of that Act (trial of information), or
 - (c) section 19(4) above,and remanding the accused in custody, may, if he has attained the age of seventeen, order that he be brought up for any subsequent remands before an alternate magistrates' court nearer to the prison where he is to be confined while on remand.
- (2) The order shall require the accused to be brought before the alternate court at the end of the period of remand or at such earlier time as the alternate court may require.
- (3) While the order is in force, the alternate court shall, to the exclusion of the court which made the order, have all the powers in relation to further remand (whether in custody or on bail) and the grant of legal aid which that court would have had but for the order.
- (4) The alternate court may, on remanding the accused in custody, require him to be brought before the court which made the order at the end of the period of remand or at such earlier time as that court may require; and, if the alternate court does so, or the accused is released on bail, the order under subsection (1) above shall cease to be in force.
- (5) Schedule 8 to this Act shall have effect to supplement this section.

Status: This is the original version (as it was originally enacted).

42 Remand of accused already in custody

- (1) When a magistrates' court remands an accused person in custody and he is already detained under a custodial sentence, the period for which he is remanded may be up to 28 clear days.
- (2) But the court shall enquire as to the expected date of his release from that detention; and if it appears that it will be before 28 clear days have expired, he shall not be remanded in custody for more than 8 clear days or (if longer) a period ending with that date.
- (3) So long as he is detained under a custodial sentence, an application for him to be further remanded in custody may be made and determined without his appearance in court, provided that he is represented by counsel or a solicitor who signifies the accused's consent to the application being heard in his absence.

43 Peremptory challenge of jurors

The provisions of section 12(1) of the Juries Act 1974 shall be amended so as to substitute in paragraph (a) thereof " three " for " seven ".

44 Appeals against conviction

In section 2 of the Criminal Appeal Act 1968 and in section 9 of the Criminal Appeal (Northern Ireland) Act 1968 (grounds for allowing appeals) in subsection (1)(a) (cases where the verdict of the jury is unsafe or unsatisfactory) for the words "verdict of the jury" there shall be substituted the word " conviction ".

45 Cases where magistrates' court may remit offender to another such court for sentence

- (1) Where a person who has attained the age of seventeen (" the offender") has been convicted by a magistrates' court (" the convicting court") of an offence to which this section applies (" the instant offence ") and—
 - (a) it appears to the convicting court that some other magistrates' court (" the other court") has convicted him of another such offence in respect of which the other court has neither passed sentence on him nor committed him to the Crown Court for sentence nor dealt with him in any other way ; and
 - (b) the other court consents to his being remitted under this section to the other court,the convicting court may remit him to the other court to be dealt with in respect of the instant offence by the other court instead of by the convicting court.
- (2) The offender, if remitted under this section, shall have no right of appeal against the order of remission.
- (3) Where the convicting court remits the offender to the other court under this section, it shall adjourn the trial of the information charging him with the instant offence, and—
 - (a) section 105 of the Magistrates' Courts Act 1952 (remand in custody or on bail) and all other enactments (whenever passed) relating to remand or the granting of bail in criminal proceedings shall have effect in relation to the convicting court's power or duty to remand the offender on that adjournment as if any reference to the court to or before which the person remanded is to

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be brought or appear after remand were a reference to the court to which he is being remitted; and

- (b) subject to subsection (4) below, the other court may deal with the case in any way in which it would have power to deal with it (including, where applicable, the remission of the offender under this section to another magistrates' court in respect of the instant offence) if all proceedings relating to that offence which took place before the convicting court had taken place before the other court.
- (4) Nothing in this section shall preclude the convicting court from making any order which it has power to make under section 28 of the Theft Act 1968 (orders for restitution) by virtue of the offender's conviction of the instant offence.
- (5) Where the convicting court has remitted the offender under this section to the other court, the other court may remit him back to the convicting court; and the provisions of subsection (3) above (so far as applicable) shall apply with the necessary modifications in relation to any remission under this subsection.
- (6) This section applies to—
- (a) any offence punishable with imprisonment; and
 - (b) any offence in respect of which the convicting court has a power or duty to order the offender to be disqualified under section 93 of the Road Traffic Act 1972 (disqualification for certain motoring offences);

and in this section " conviction " includes a finding under section 26(1) of the Magistrates' Courts Act 1952 (remand for medical examination) that the person in question did the act or made the omission charged, and " convicted " shall be construed accordingly.

46 Committal for sentence for offences tried summarily

For section 56(1) of the Criminal Justice Act 1967 (powers of magistrates' courts as regards committal for sentence in respect of offences tried summarily) there shall be substituted—

“(1) Where a magistrates' court (' the committing court') commits a person in custody or on bail to the Crown Court under any enactment to which this section applies to be sentenced or otherwise dealt with in respect of an offence (' the relevant offence'), the committing court—

- (a) if the relevant offence is an offence triable either way, may also commit him, in custody or on bail as the case may require, to the Crown Court to be dealt with in respect of any other offence whatsoever in respect of which the committing court has power to deal with him (being an offence of which he has been convicted by that or any other court); or
- (b) if the relevant offence is a summary offence, may commit him, as aforesaid, to the Crown Court to be dealt with in respect of—
 - (i) any other offence of which the committing court has convicted him, being either an offence punishable with imprisonment or an offence in respect of which the committing court has a power or duty to order him to be disqualified under section 93 of the Road Traffic Act 1972 (disqualification for certain motoring offences); or
 - (ii) any suspended sentence in respect of which the committing court has under section 24(1) of the Powers of Criminal Courts Act 1973 power to deal with him.”.

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47 Prison sentence partly served and partly suspended

- (1) Where a court passes on an adult a sentence of imprisonment for a term of not less than six months and not more than two years, it may order that, after he has served part of the sentence in prison, the remainder of it shall be held in suspense.
- (2) The part to be held in suspense shall be not more than three quarters and not less than one quarter of the whole term, and the offender shall not be required to serve that part unless it is restored under subsection (3) below; and this shall be explained to him by the court, using ordinary language and stating the substantial effect of that subsection.
- (3) If at any time after the making of the order he is convicted of an offence punishable with imprisonment and committed during the whole period of the original sentence, then (subject to subsection (4) below) a court which is competent under this subsection may restore the part of the sentence held in suspense and order him to serve it.
- (4) If a court, considering the offender's case with a view to exercising the powers of subsection (3) above, is of opinion that (in view of all the circumstances, including the facts of the subsequent offence) it would be unjust fully to restore the part of the sentence held in suspense, it shall either restore a lesser part or declare, with reasons given, its decision to make no order under the subsection.
- (5) Where a court exercises those powers, it may direct that the restored part of the original sentence is to take effect as a term to be served either immediately or on the expiration of another term of imprisonment passed on the offender by that or another court.
- (6) "Adult" in this section means a person who has attained the age of twenty-one; and "the whole period" of a sentence is the time which the offender would have had to serve in prison if the sentence had been passed without an order under subsection (1) above and he had no remission under section 25(1) of the Prison Act 1952 (industry and good conduct in prison).
- (7) Schedule 9 to this Act has effect with respect to procedural, sentencing and miscellaneous matters ancillary to those dealt with above in this section, including in particular the courts which are competent under subsection (3) above.
- (8) This section and paragraphs 1 to 6 of Schedule 9 to this Act and the Powers of Criminal Courts Act 1973 shall be construed and have effect as if this section and those paragraphs of the Schedule were contained in that Act.

48 Power to make rules as to furnishing of information by prosecutor in criminal proceedings

- (1) The power to make rules conferred by section 15 of the Justices of the Peace Act 1949 shall, without prejudice to the generality of subsection (1) of that section, include power to make, with respect to proceedings against any person for a prescribed offence or an offence of any prescribed class, provision—
 - (a) for requiring the prosecutor to do such things as may be prescribed for the purpose of securing that the accused or a person representing him is furnished with, or can obtain, advance information concerning all, or any prescribed class of, the facts and matters of which the prosecutor proposes to adduce evidence; and
 - (b) for requiring a magistrates' court, if satisfied that any requirement imposed by virtue of paragraph (a) above has not been complied with, to adjourn the proceedings pending compliance with that requirement unless the court is

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satisfied that the conduct of the case for the accused will not be substantially prejudiced by noncompliance with the requirement.

- (2) Rules made by virtue of subsection (1)(a) above—
- (a) may require the prosecutor to do as provided in the rules either—
 - (i) in all cases ; or
 - (ii) only if so requested by or on behalf of the accused;
 - (b) may exempt facts and matters of any prescribed description from any requirement imposed by the rules, and may make the opinion of the prosecutor material for the purposes of any such exemption ; and
 - (c) may make different provision with respect to different offences or offences of different classes.
- (3) It shall not be open to a person convicted of an offence to appeal against the conviction on the ground that a requirement imposed by virtue of subsection (1) above was not complied with by the prosecutor.

49 Power to order search of persons before Crown Court

After section 34 of the Powers of Criminal Courts Act 1973 there shall be inserted—

“34A Power of Crown Court to order search of persons before it.

- (1) Where—
- (a) the Crown Court imposes a fine on a person or forfeits his recognizance ;
 - (b) the Crown Court makes against a person any such order as is mentioned in paragraph 3, 4 or 9 of Schedule 9 to the Administration of Justice Act 1970 (orders for the payment of costs);
 - (c) the Crown Court makes against a person any such order as is mentioned in paragraph 12 of that Schedule (fines etc. payable by parents or guardians) other than an order under section 35 of this Act; or
 - (d) on the determination of an appeal brought by a person under section 83 of the Magistrates' Courts Act 1952 a sum is payable by him, whether by virtue of an order of the Crown Court or by virtue of a conviction or order of the magistrates' court against whose decision the appeal was brought,
- then, if that person is before it, the Crown Court may order him to be searched.
- (2) Any money found on a person in a search under this section may be applied, unless the court otherwise directs, towards payment of the fine or other sum payable by him; and the balance, if any, shall be returned to him.”.